REMARKS

Applicant respectfully requests consideration of the subject application as amended herein. This Amendment is submitted in response to the Office Action mailed April 20, 2006. Claims 1-16 stand rejected. In this Amendment, claims 1, 2, 4-8, 10-13, 15 and 16 have been amended. No new matter has been added.

35 U.S.C. § 112 Rejections

The Examiner has rejected claims 5-6, 11-12 and 15-16 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 5-6, 11-12 and 15-16 have been amended to particularly point out and distinctly claim the subject matter, which Applicant regards as the invention.

35 U.S.C. § 102 Rejections

Claims 1-16 are rejected under 35 U.S.C. §102(e) as being anticipated by Sugar (U.S. Patent Application No. 2002/0061031, hereinafter "Sugar"). Claims 5, 11 and 15 are rejected under 35 U.S.C. §102(e) as being anticipated by Mansfield (U.S. Patent No. 6,704,346, hereinafter "Mansfield").

Applicant does not admit that Sugar and Mansfield are prior art and reserves the right to swear behind these references at a later date. Regardless, Applicant respectfully submits that the pending claims are patentable over the above reference.

Sugar discloses a method for interference mitigation among multiple WLAN protocols. Sugar uses a multiple protocol communication device (MPD) that functions as

a Bluetooth master to exchange data with other slave terminals. The MPD has at least 5

packets in the queue to be transmitted to a slave terminal, allowing the MPD to use 5-slot

packets to achieve the highest throughput efficiency. If less than 5 packets are available,

the MPD transmits single or triple-slot packets.

Hence, the transmission process in Sugar starts with having packets of specific

type in the queue. Since these specific packets are already in the queue, their type does

not need to be identified or selected. In contrast, the presently claimed invention first

determines how many time slots are available for transmission of data, then identifies

data packet types that fit into the available time slots, and further selects from the

identified data packet types a data packet type for transmitting a portion of the data in

accordance with characteristics of the transmission. Sugar does not teach or suggest the

above features of the present invention that are included in the following language of

claim 1:

> ... identifying data for transmission;
> determining how many time-slots are available for the transmission;
> identifying a plurality of data packet types that fit into the available
> time-slots; and
> selecting, from the plurality of data packet types, a data packet type to
> transmit a portion of the data in accordance with characteristics of the
> transmission.

Similar limitations are also included in claims 5-7, 11-13, 15 and 16.

Accordingly, claims 1, 5-7, 11-13, 15 and 16, and their corresponding dependent claims,

are not anticipated by Sugar.

Mansfield is directed to a method and apparatus to provide improved microwave

interference robustness in RF communications devices. As with Sugar, the specific

packets are already in the queue in Mansfield. Mansfield describes that the packet

header, contained in every BT packet, defines the packet type of this packet. Thus, in Mansfield, the packet type is identified and selected before data is identified for transmission, and before the number of available time slots is determined.

In contrast, the presently claimed invention first determines how many time slots are available for transmission of data, then identifies data packet types that fit into the available time slots, and further selects from the identified data packet types a data packet type for transmitting a portion of the data in accordance with characteristics of the transmission.

Thus, Mansfield lacks the same features of the presently claimed invention that are missing from Sugar. Accordingly, the present invention, as claimed in claims 1-16 is not anticipated Mansfield for the same reasons as given above with respect to Sugar.

Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 102(e) and submits that the pending claims are in condition for allowance.
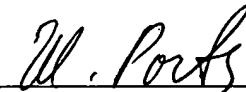
Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Marina Portnova at (408) 720-8300.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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Marina Portnova
Reg. No. 45,750

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300